IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2007

CORAM

THE HONOURABLE MR. JUSTICE P. SATHASIVAM
AND
THE HONOURABLE MR. JUSTICE N. PAUL VASANTHAKUMAR

W.A. No. 3264 of 2002

The State Government of Tamil Nadu,
rep. by Under Secretary,
Public (Political Pension II) Department,
Fort St. George, Chennai - 9. ..Appellant

Vs.

1. K.S. Annapparaja (Died)

2. A. Lingammal

(R2 impleaded as party respondent vide
order of Court dt. 5.2.2007 made in
W.A.M.P. No. 1947/2006) ..Respondent

Prayer: Writ Appeal against the order of His Lordship Mr. Justice V. Kanakaraj dated 2.7.2002 and made in W.P. No. 23568/2002. Filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus after calling for the records connected with the orders of the Respondent in Letter No. 42306/A02/2000-01 dated 29.10.2001 and to quash the same and to direct the respondent to pay to the petitioner freedom Fighters pension from the date of his original Application dated 21.12.2001.

For Appellant :: Mr.P. Subramanian, Govt. Advocate
For Respondent No.2 :: Mr.R. Murali

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J U D G M E N T

(Judgment of the Court was delivered by P. Sathasivam,J.)

Aggrieved by the order of the learned Single Judge dated 2.7.2002 made in W.P. No. 23568/2002, Secretary to Government, Public (Political Pension II) Department, State of Tamil Nadu, has filed the above appeal.

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2. Heard the learned Government Advocate for the appellant as well as the learned counsel for the respondent.

3. Considering the limited issue, it is not necessary to refer all the factual details. It is seen that accepting the case of the 1st respondent herein/writ petitioner, the learned Single Judge directed the Government to pay Freedom Fighters' Pension from the date of the original application of the petitioner dated 21.2.1981 within 30 days from the date of receipt of a copy of the said order. According to the appellant, the learned Judge is not justified in granting Freedom Fighters' Pension from the date on which the application was made (21.2.1981). In support of the above claim, the appellant relied on the decision of the Supreme Court reported in 2002-2-L.W.124 (Gurdial Singh V. Union of India and Ors.). In view of the same, we verified the above decision. The following conclusion in paragraph 9 of the said judgment is relevant:

> "9. We are satisfied that the order of the respondent Authorities impugned before the High Court (Annexure P-14) dated 1.11.2000 is liable to be set aside and the appellant entitled to the grant of relief of pension. However, keeping in view that lapse of time and peculiar circumstances of the case, we are not inclined to grant him the pension with effect from 12.3.1973 as claimed and feel that the ends of justice would be met if the appellants is granted pension with effect from March, 1996 when he was forced to file Writ Petition No. 12350 of 1996."

It is clear from the above, taking note of the lapse of time and peculiar circumstances of the case, the Honourable Supreme Court granted pension with effect from March, 1996 when the petitioner therein filed W.P. No. 12350/1996. considering the special circumstances mentioned therein, we are of the view that the same cannot be applied to all cases as argued by the learned Government Advocate. In fact, the said issue has been considered by a learned Single Judge of this Court in the judgment reported in 1991 Writ L.R. 49 (Gabriel, D V. The Government of India) wherein the learned Judge directed the authority to grant pension from the date of the application of the petitioner. It is also brought to our notice that the same has been approved by a Division Bench of this Court in the judgment reported in 1994 Writ L.R. 137 (Thangavelu R. V. Government of India & another). It is further brought to our notice that the Honourable Supreme Court in 1993 Supp (3) SCC 2 (Mukund Lal Bhandari V. Union of India) directed the

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authorities to sanction Freedom Fighters' Pension to the petitioner from the date on which the original application was received whether the application is filed with or without the requisite evidence.

4. In the light of the above discussion, we do not find any merit in the writ appeal filed by the Government. Consequently, the same is dismissed. In view of the dismissal of the writ appeal, the appellant is directed to settle the arrears payable to the impleaded 2nd respondent within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

nv

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Secretary,
Public (Political Pension II) Department,
Fort St. George, Chennai - 9.

+ 1 cc to Mr. R. Murali, Advocate SR No. 6910

+ 1 cc to the Government Pleader, SR No.6812

Writ Appeal No. 3264/2002

TS(CO)
SR/14.2.2007

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